



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Hernandez Construction Corporation

**File:** B-261365.2

**Date:** June 1, 1995

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### DECISION

Hernandez Construction Corporations protests the small disadvantaged business status of Kilgallon/Spectrum, a joint venture, under invitation for bids No. N68711-93-B-1379 issued by the Department of the Navy.

We dismiss the protest because our Office does not review size determinations or the stewardship of small disadvantaged business contracting programs.

The Small Business Act, 15 U.S.C. § 637(b)(6) (1988), gives the Small Business Administration (SBA), not our Office, the conclusive authority to determine matters of small business size status for federal procurements. 4 C.F.R. § 21.3(m)(2); Survive Eng'g Co., B-235958, July 20, 1989, 89-2 CPD ¶ 71. Thus, we will not review a protester's challenge to another company's size status, nor will we review a decision by the SBA that a company is, or is not, a small business for purposes of federal procurements. Survive Eng'g Co., B-235958, *supra*; Antenna Prods. Corp., B-227116.2, Mar. 23, 1988, 88-1 CPD ¶ 297.

Small disadvantaged business status under the Department of Defense's small disadvantaged business contracting program is also determined by the SBA, not the General Accounting Office. 13 C.F.R. §§ 124.601 *et seq.* Under SBA's regulations, a protest challenging the disadvantaged status of a bidder or offeror is to be timely filed with the contracting officer, who in turn refers it to the SBA for a decision. 13 C.F.R. § 124.605.

Accordingly, we are without jurisdiction in this matter and the protest is dismissed.

*Ronald Berger*

Ronald Berger  
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